IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE THOTTATHIL B.RADHAKRISHNAN

THURSDAY, THE 1ST MARCH 2007 / 10TH PHALGUNA 1928

WP(C).No. 6875 of 2006(R)

PETITIONER:

M/S.A.S.UNNI & ASSOCIATES,
NO.57/797, MAHAKAVI G ROAD,
ERNAKULAM, KOCHI-682 011,
REP. BY ONE OF ITS PARTNERS MR.K.K.NAIR.

BY ADV. SRI.P.GOPINATH

RESPONDENTS:

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1. STATE OF KERALA,
REP. BY THE PRINCIPAL SECRETARY,
INDUSTRIES DEPARTMENT,
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM.

2. THE ADDITIONAL SECRETARY TO GOVERNMENT,
INDUSTRIES (H) DEPARTMENT,
GOVERNMENT OF KERALA, THIRUVANANTHAPURAM.

3. THE SECRETARY OF GOVERNMENT,
FINANCE (EXPENDITURE), GOVERNMENT OF KERALA,
TRIVANDRUM.

BY GOVT. PLEADER (FINANCE) SRI.N.MANOJKUMAR

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 01/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX IN WPC.6875/06

PETIITONER'S EXHIBITS:

EXT.P1: TRUE COPY OF THE CERTIFICATE ISSUED BY THE INSTITUTE SHOWING THE CONSTITUTION OF THE FIRM AS ON 1.1.2006.

EXT.P2: TRUE COPY OF THE LETTER DATED 16.2.2004 ISSUED BY SRI.VENKITACHALAM TO THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA.

EXT.P3: TRUE COPY OF THE CERTIFICATE REGARDING THE CONSTITUTION OF THE FIRM ISSUED BY THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA AS ON 1.1.2004.

EXT.P4: TRUE COPY OF THE CERTIFICATE REGARDING THE CONSTITUTION OF THE FIRM ISSUED BY THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA AS ON 1.1.2005.

EXT.P5: TRUE COPY OF THE DEED OF RECONSTITUTED PARTNERSHIP.

EXT.P6: TRUE COPY OF THE LETTER DATED 20.11.2004 ADDRESSED TO THE SECRETARY OF THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA.

EXT.P7: TRUE COPY OF THE ORDER G.O.(RT) NO.1248/2005/ID DATED 8.12.2005.

/TRUE COPY/

THOTTATHIL B.RADHAKRISHNAN, J

W.P(C).No.6875 OF 2006

Dated this the 1st day of March, 2007

JUDGMENT

The counter affidavit of the third respondent gives reasons for the decision in Ext.P7, which is a document, issued without hearing the petitioner, a firm of Chartered Accountants. Under such circumstances, since the counter affidavit is filed by placing the reasons in support of the action taken as per Ext.P7, that shall be treated as a reply to Ext.P7 by considering it as only a tentative decision. The petitioner will be afforded an opportunity of hearing (post-decision hearing on Ext.P7) and the final decision shall be taken by the Government within a period of three months from the date of receipt of a copy of this judgment. The petitioner will be given opportunity to contend that if at all negligence could be attributed to any of its partners, the other partners could be considered to continue with the audit work. It is also submitted by the learned counsel for the petitioner that the person who was the Chartered Accountant who did the work which led to Ext.P7 has left the

petitioner firm and going by Ext.P7, he may continue to do the audit work in spite of Ext.P7 because Ext.P7 may not bind him. If the Government feels it necessary to take any action, such proceedings will be issued in that regard.

The writ petition is disposed of with the above directions.

THOTTATHIL B.RADHAKRISHNAN
Judge

kkb.